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Right of peoples to self-determination

Report of the Third Committee

Rapporteur: Mr. Juraj **Priputen** (Slovakia)

I. Introduction

1. At its 3rd plenary meeting, on 19 September 2001, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-sixth session the item entitled "Right of peoples to self-determination" and to allocate it to the Third Committee.

2. The Third Committee held a substantive debate on the item at its 26th to 28th, 30th, 36th, 41st, 42nd, 47th and 50th meetings, on 31 October and on 1, 5, 9, 15, 16, 21 and 27 November 2001. An account of the Committee's discussion is contained in the relevant summary records (A/C.3/56/SR.26-28, 30, 36, 41, 42, 47 and 50).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General (A/56/295);

(b) Note by the Secretary-General transmitting the report of the Special Rapporteur of the Commission on Human Rights on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (A/56/224);

(c) Letter dated 11 October 2001 from the Permanent Representative of Qatar to the United Nations addressed to the Secretary-General, transmitting the documents of the ninth extraordinary session of Ministers for Foreign Affairs of the Organization of the Islamic Conference, held at Doha on 10 October 2001 (A/56/462-S/2001/962);

(d) Letter dated 21 November 2001 from the Ambassador of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General, transmitting the Declaration adopted by the Ministers for Foreign Affairs of the

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Group of 77 at their twenty-fifth annual meeting, held at United Nations Headquarters on 16 November 2001 (A/56/647).

4. At the 26th meeting, on 31 October, an introductory statement was made by the Special Rapporteur of the Commission on Human Rights on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (see A/C.3/56/SR.26).

5. At the same meeting, the Committee engaged in a dialogue with the Special Rapporteur, in which the representatives of the Libyan Arab Jamahiriya and Cuba took part (see A/C.3/56/SR.26).

II. Consideration of proposals

A. Draft resolution A/C.3/56/L.31

6. At the 41st meeting, on 15 November, the representative of Cuba, on behalf of Angola, Bolivia, Cambodia, Cameroon, China, the Comoros, the Congo, Costa Rica, Cuba, the Democratic People's Republic of Korea, the Democratic Republic of the Congo, the Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Guatemala, the Islamic Republic of Iran, Iraq, Kenya, the Lao People's Democratic Republic, the Libyan Arab Jamahiriya, Mali, Nicaragua, the Niger, Nigeria, Pakistan, Peru, Rwanda, the Sudan, Swaziland, the Syrian Arab Republic, Togo, Viet Nam and Yemen, introduced a draft resolution entitled "Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination" (A/C.3/56/L.31). Subsequently, Algeria, India, Madagascar and Namibia joined in sponsoring the draft resolution.

7. At its 50th meeting on 27 November, the Committee had before it a statement of the programme budget implications of draft resolution A/C.3/56/L.31, submitted by the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly (A/C.3/56/L.77).

8. At the same meeting, the Committee adopted draft resolution A/C.3/56/L.31 by a recorded vote of 92 to 20, with 30 abstentions (see para. 17, draft resolution I). The voting was as follows:[1]

In favour:

Afghanistan, Algeria, Angola, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominican Republic, Ecuador, Egypt, Eritrea, Ethiopia, Gambia, Ghana, Guinea, Guyana, Honduras, India, Indonesia, Iran (Islamic Republic of), Jamaica, Jordan, Kenya, Kuwait, Lebanon, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mexico, Mongolia, Morocco, Mozambique, Namibia, Nepal, Nicaragua, Nigeria, Oman, Panama, Peru, Philippines, Qatar, Russian Federation, Saint Lucia, Saudi Arabia, Senegal, Singapore, South Africa, Sri Lanka, Sudan, Swaziland,

[1] The delegation of Guatemala, Mauritius, Myanmar, Pakistan and Paraguay subsequently indicated that, had they been present, they would have voted in favour.

Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

Belgium, Canada, Czech Republic, Denmark, Finland, Germany, Hungary, Iceland, Israel, Italy, Japan, Luxembourg, Micronesia, Netherlands, Norway, Poland, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Andorra, Australia, Austria, Chile, Croatia, Cyprus, Estonia, France, Georgia, Greece, Ireland, Kazakhstan, Latvia, Liechtenstein, Lithuania, Malta, Monaco, New Zealand, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Sierra Leone, Slovakia, Slovenia, Spain, the former Yugoslav Republic of Macedonia, Turkey, Yugoslavia.

9. Statements in explanation of vote were made after the vote by the representatives of the United States of America, Belgium (on behalf of the States Members of the United Nations that are members of the European Union) and Armenia (see A/C.3/56/SR.50).

B. Draft resolution A/C.3/56/L.32

10. At the 42nd meeting, on 16 November, the representative of Pakistan, on behalf of Armenia, Azerbaijan, Bahrain, Bangladesh, Benin, Bosnia and Herzegovina, Brunei Darussalam, Chile, the Comoros, the Democratic Republic of the Congo, Djibouti, the Dominican Republic, Egypt, El Salvador, Eritrea, Ethiopia, the Islamic Republic of Iran, Iraq, Jordan, Kenya, Kuwait, Lebanon, the Libyan Arab Jamahiriya, Malaysia, Mali, Mauritania, Morocco, the Niger, Nigeria, Oman, Pakistan, Qatar, Saint Lucia, Saudi Arabia, Singapore, Suriname, Thailand, the United Arab Emirates and Viet Nam, introduced a draft resolution entitled "Universal realization of the right of peoples to self-determination" (A/C.3/56/L.32). Subsequently, Afghanistan, Burkina Faso, Cameroon, Chad, Madagascar, Somalia and Togo joined in sponsoring the draft resolution.

11. At its 47th meeting, on 21 November, the Committee adopted draft resolution A/C.3/56/L.32 without a vote (see para. 17, draft resolution II).

12. After the adoption of the draft resolution, a statement was made by the representative of Argentina (see A/C.3/56/SR.47).

C. Draft resolution A/C.3/56/L.33

13. At the 36th meeting, on 9 November, the representative of Egypt, on behalf of Afghanistan, Algeria, Andorra, Antigua and Barbuda, Austria, Bahrain, Bangladesh, Belgium, Benin, Bolivia, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Chile, the Comoros, Costa Rica, Cuba, Cyprus, Denmark, Djibouti, Ecuador, Egypt, Eritrea, Ethiopia, Finland, France, the Gambia, Germany, Greece, Guinea, Guinea-Bissau, Guyana, Iceland, Indonesia, Ireland, Italy, Japan, Jordan, Kenya, Kuwait, the Lao People's Democratic Republic, Lebanon, Liechtenstein, Luxembourg, Malaysia, Mali, Malta, Mauritania, Monaco, Morocco, Mozambique, Namibia, the

Netherlands, the Niger, Nigeria, Norway, Oman, Pakistan, Panama, Portugal, Qatar, San Marino, Saudi Arabia, Senegal, Sierra Leone, Somalia, South Africa, Spain, the Sudan, Sweden, Tunisia, Turkey, the United Arab Emirates, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania, Viet Nam, Yemen, Zambia, Zimbabwe and Palestine, introduced a draft resolution entitled "The right of the Palestinian people to self-determination" (A/C.3/56/L.33). Subsequently, Argentina, Armenia, Belize, Cambodia, Cameroon, Cape Verde, Chad, China, the Congo, Croatia, the Czech Republic, the Democratic Republic of the Congo, Hungary, India, Lesotho, Madagascar, Malawi, Nicaragua, Poland, Saint Lucia, Suriname, Swaziland and Togo joined in sponsoring the draft resolution.

14. At its 47th meeting, on 21 November, the Committee adopted draft resolution A/C.3/56/L.33 by a recorded vote of 152 to 2 (see para. 17, draft resolution III). The voting was as follows:[2]

In favour:

Afghanistan, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Cambodia, Cameroon, Canada, Cape Verde, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gambia, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Guyana, Haiti, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Lucia, San Marino, Saudi Arabia, Senegal, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Syrian Arab Republic, Thailand, the former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia, Zimbabwe.

Against:

Israel, United States of America.

Abstaining:

None.

15. Statements in explanation of vote were made after the vote by the representatives of Israel, Canada, Guatemala, the Russian Federation and Australia (see A/C.3/56/SR.47).

[2] The delegation of Benin subsequently indicated that, had it been present, it would have voted in favour.

16. After the adoption of the draft resolution, statements were made by the observer for Palestine, as well as by the representatives of Egypt and Belgium (on behalf of the States Members of the United Nations that are members of the European Union, and Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey, as well as Iceland and Norway) (see A/C.3/56/SR.47).

III. Recommendations of the Third Committee

17. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I
Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

The General Assembly,

Recalling its resolution 55/86 of 4 December 2000, and taking note of Commission on Human Rights resolution 2001/3 of 6 April 2001,[3]

Recalling also all of its relevant resolutions, in which, inter alia, it condemned any State that permitted or tolerated the recruitment, financing, training, assembly, transit and use of mercenaries with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries, or of fighting against national liberation movements, and recalling further the relevant resolutions of and international instruments adopted by the Security Council, the Economic and Social Council and the Organization of African Unity, inter alia, the Convention of the Organization of African Unity on the Elimination of Mercenarism in Africa,

Reaffirming the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality, political independence, the territorial integrity of States, the self-determination of peoples, the non-use of force or of the threat of use of force in international relations and non-interference in affairs within the domestic jurisdiction of States,

Reaffirming also that, by virtue of the principle of self-determination, all peoples have the right freely to determine their political status and to pursue their economic, social and cultural development, and that every State has the duty to respect this right in accordance with the provisions of the Charter,

Reaffirming further the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[4]

Alarmed and concerned about the danger that the activities of mercenaries constitute to peace and security in developing countries, in particular in Africa and in small States,

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[3] See *Official Records of the Economic and Social Council, 2001, Supplement No. 3* (E/2001/23), chap. II, sect. A.

[4] Resolution 2625 (XXV), annex.

Deeply concerned about the loss of life, the substantial damage to property and the negative effects on the policy and economies of affected countries resulting from mercenary criminal activities,

Convinced that, notwithstanding the way in which mercenaries or mercenary-related activities are used or the form they take to acquire some semblance of legitimacy, they are a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of human rights by peoples,

1. *Welcomes* the report of the Special Rapporteur of the Commission on Human Rights on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination;[5]

2. *Reaffirms* that the use of mercenaries and their recruitment, financing and training are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;

3. *Recognizes* that armed conflict, terrorism, arms trafficking and covert operations by third Powers, inter alia, encourage the demand for mercenaries on the global market;

4. *Urges* all States to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training and transit of mercenaries for the planning of activities designed to impede the right of peoples to self-determination, to destabilize or overthrow the Government of any State or to dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right of peoples to self-determination;

5. *Welcomes* the recent entry into force of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries,[6] and calls upon all States that have not yet done so to consider taking the necessary action to sign or ratify it, as a matter of priority;

6. *Also welcomes* the cooperation extended by those countries that have received visits from the Special Rapporteur;

7. *Further welcomes* the adoption by some States of national legislation that restricts the recruitment, assembly, financing, training and transit of mercenaries;

8. *Calls upon* States to investigate the possibility of mercenary involvement whenever and wherever criminal acts of a terrorist nature occur and to bring to trial those found responsible or to consider their extradition, if so requested, in accordance with domestic law and applicable bilateral or international treaties;

9. *Welcomes* the convening, by the Office of the United Nations High Commissioner for Human Rights, of a meeting of experts on the question of traditional and new forms of mercenary activities as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, and

[5] See A/56/224.
[6] Resolution 44/34, annex.

takes note of its report,[7] as a valuable contribution to the process of formulating a clearer legal definition of mercenaries that would make more efficient the prevention and punishment of mercenary activities;

10. *Requests* the United Nations High Commissioner for Human Rights to convene, before the fifty-ninth session of the Commission on Human Rights, a second meeting of experts, pursuant to General Assembly resolution 54/151 of 17 December 1999, to continue studying and updating the international legislation and to make recommendations for a clearer legal definition of mercenaries that would make more efficient the prevention and punishment of mercenary activities;

11. *Requests* the Special Rapporteur to propose a clearer definition of mercenaries, including clear nationality criteria, based on his findings, the proposals of States and the outcomes of the meetings of experts, and to make suggestions on the procedure to be followed for international adoption of a new definition;

12. *Requests* the Office of the United Nations High Commissioner for Human Rights, as a matter of priority, to publicize the adverse effects of the activities of mercenaries on the right of peoples to self-determination and, when requested and where necessary, to render advisory services to States that are affected by the activities of mercenaries;

13. *Requests* the Special Rapporteur to continue taking into account in the discharge of his mandate the fact that mercenary activities are continuing to occur in many parts of the world and are taking on new forms, manifestations and modalities;

14. *Urges* all States to cooperate fully with the Special Rapporteur in the fulfilment of his mandate;

15. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Special Rapporteur with all the necessary assistance and support for the fulfilment of his mandate, both professional and financial, including through the promotion of cooperation between the Special Rapporteur and other components of the United Nations system that deal with countering mercenary-related activities;

16. *Requests* the Special Rapporteur to consult States and intergovernmental and non-governmental organizations in the implementation of the present resolution and to report, with specific recommendations, to the General Assembly at its fifty-seventh session his findings on the use of mercenaries to undermine the right of peoples to self-determination;

17. *Decides* to consider at its fifty-seventh session the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination under the item entitled "Right of peoples to self-determination".

[7] E/CN.4/2001/18, annex.

Draft resolution II
Universal realization of the right of peoples to self-determination

The General Assembly,

Reaffirming the importance, for the effective guarantee and observance of human rights, of the universal realization of the right of peoples to self-determination enshrined in the Charter of the United Nations and embodied in the International Covenants on Human Rights,[8] as well as in the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in General Assembly resolution 1514 (XV) of 14 December 1960,

Welcoming the progressive exercise of the right to self-determination by peoples under colonial, foreign or alien occupation and their emergence into sovereign statehood and independence,

Deeply concerned at the continuation of acts or threats of foreign military intervention and occupation that are threatening to suppress, or have already suppressed, the right to self-determination of sovereign peoples and nations,

Expressing grave concern that, as a consequence of the persistence of such actions, millions of people have been and are being uprooted from their homes as refugees and displaced persons, and emphasizing the urgent need for concerted international action to alleviate their condition,

Recalling the relevant resolutions regarding the violation of the right of peoples to self-determination and other human rights as a result of foreign military intervention, aggression and occupation adopted by the Commission on Human Rights at its fifty-seventh[9] and previous sessions,

Reaffirming its previous resolutions on the universal realization of the right of peoples to self-determination, including resolution 55/85 of 4 December 2000,

Also reaffirming its resolution 55/2 of 18 September 2000, containing the United Nations Millennium Declaration, which, inter alia, upholds the right to self-determination of peoples under colonial domination and foreign occupation,

Taking note of the report of the Secretary-General on the right of peoples to self-determination,[10]

1. *Reaffirms* that the universal realization of the right of all peoples, including those under colonial, foreign and alien domination, to self-determination is a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights;

2. *Declares its firm opposition* to acts of foreign military intervention, aggression and occupation, since these have resulted in the suppression of the right of peoples to self-determination and other human rights in certain parts of the world;

3. *Calls upon* those States responsible to cease immediately their military intervention in and occupation of foreign countries and territories and all acts of repression, discrimination, exploitation and maltreatment, in particular the brutal and inhuman methods reportedly employed for the execution of those acts against the peoples concerned;

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[8] Resolution 2200 A (XXI), annex.

[9] See *Official Records of the Economic and Social Council, 2001, Supplement No. 3* (E/2001/23), chap. II, sect. A.

[10] A/56/295.

4. *Deplores* the plight of millions of refugees and displaced persons who have been uprooted as a result of the aforementioned acts, and reaffirms their right to return to their homes voluntarily in safety and honour;

5. *Requests* the Commission on Human Rights to continue to give special attention to the violation of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation;

6. *Requests* the Secretary-General to report on this question to the General Assembly at its fifty-seventh session under the item entitled "Right of peoples to self-determination".

Draft resolution III
The right of the Palestinian people to self-determination

The General Assembly,

Aware that the development of friendly relations among nations, based on respect for the principle of equal rights and self-determination of peoples, is among the purposes and principles of the United Nations, as defined in the Charter,

Recalling the International Covenants on Human Rights,[11] the Universal Declaration of Human Rights,[12] the Declaration on the Granting of Independence to Colonial Countries and Peoples[13] and the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights on 25 June 1993,[14]

Recalling also the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,[15]

Recalling further the United Nations Millennium Declaration,[16]

Expressing hope for an immediate resumption of negotiations within the Middle East peace process on its agreed basis and for the speedy achievement of a final settlement between the Palestinian and Israeli sides,

Affirming the right of all States in the region to live in peace within secure and internationally recognized borders,

1. *Reaffirms* the right of the Palestinian people to self-determination, including the right to their independent State;

2. *Expresses the hope* that the Palestinian people will soon be exercising their right to self-determination, which is not subject to any veto, in the current peace process;

3. *Urges* all States and the specialized agencies and the organizations of the United Nations system to continue to support and assist the Palestinian people in their quest for self-determination.

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[11] Resolution 2200 A (XXI), annex.
[12] Resolution 217 A (III).
[13] Resolution 1514 (XV).
[14] A/CONF.157/24 (Part I), chap. III.
[15] See resolution 50/6.
[16] See resolution 55/2.